

BOARD OF ENVIRONMENTAL PROTECTION
PUBLIC HEARING

PROPOSED AMENDMENTS TO
CHAPTER 100 DEFINITIONS REGULATION AND CHAPTER 115 MAJOR
AND MINOR SOURCE AIR EMISSION LICENSE REGULATIONS
CHAPTER 110 AMBIENT AIR QUALITY STANDARDS

Taken before Heather M. Williams, a Notary
Public in and for the State of Maine, at the Comfort
Inn, Augusta, Maine, on Wednesday, June 12, 1996,
commencing at 1:30 P.M., pursuant to notice given.

BOARD MEMBERS PRESENT:

OSMOND BONSEY
JOHN TEWHEY
KATHY LITTLEFIELD
PHILIP SOUCY
RONALD MALLETT
CHARLES STICKNEY, JR.
JOHN MARSH

COPY

ALLEY & MORRISETTE REPORTING SERVICE
24 Stone Street
Augusta, ME 04330

1 (This hearing was taken before Heather M.
2 Williams, a Notary Public in and for the State of
3 Maine, at the Comfort Inn, Augusta, Maine, on
4 Wednesday, June 12, 1996, beginning at 1:30 P.M.)

5 *****

6 CHAIRMAN BONSEY: Okay. I think it's time that
7 we can come to order. This is a meeting of the Board
8 of Environmental Protection. We will be holding a
9 public hearing today on the Chapter 100 Definitions
10 Regulation and Chapter 115 Major and Minor Source Air
11 Emissions License Regulations and Chapter 110
12 Amendments to Ambient Air Quality Standards. So
13 we'll simply have really three issues that we're
14 dealing here today with.

15 My name is Osmond Bonsey. I'm a member of the
16 Board of Environmental Protection, and I will be the
17 presiding officer today. Other Board members here
18 today are John Marsh, is outside the door, but he'll
19 be with us in a minute; Charles Stickney; John
20 Tewhey; Kathryn Littlefield; Phil Soucy; and Ron
21 Mallett. Staff here today from the Department of
22 Environmental Protection Bureau of Air Quality are
23 Jeff Crawford and Carolyn Wheeler. Our recorder
24 today is Alley and Morrisette Reporting Services.

25 Today's hearing is being held pursuant to 38

1 M.R.S.A., Sections 585-A, 585-C, 345-A, and Public
2 Law Chapter 384 Section 14. In addition, because
3 these amendments will be submitted as a revision of
4 Maine's State Implementation Plan for Air Quality,
5 today's hearing will be conducted pursuant to the
6 requirements of Title 40, Part 51 of the Code of
7 Federal Regulations. Notice of today's hearing was
8 published in the Kennebec Journal on May 9, 1996, and
9 in the Kennebec Journal, Lewiston Daily Sun,
10 Waterville Morning Sentinel, Portland Press Herald,
11 and Bangor Daily News on May 22, 1996. Notice of
12 today's hearing was also sent to all persons on the
13 Department's regulatory notice mailing list and to
14 other persons who have expressed interest in the rule
15 that is the subject of today's hearing.

16 The record for written comments shall remain
17 open until 5:00 P.M. on June 24, 1996. All written
18 testimony should be addressed to the Bureau of Air
19 Quality and clearly marked as follows: For inclusion
20 in the June 12, 1996, Chapter 100, 115, and 110
21 public hearing record. Today's hearing will be
22 transcribed and made available to all Board members.
23 Based on the complete record, the Board will vote to
24 approve, deny, or amend the proposed amendments at a
25 regularly scheduled Board meeting. Copies of the

1 final staff recommendation will be available upon
2 request before the rules are presented for adoption.

3 An attendance sheet is presently circulating the
4 room for those interested in being on a mailing list
5 for this rule. Following adoption of this rule, the
6 Department will prepare a formal submittal to the
7 U.S. Environmental Protection Agency for inclusion in
8 the State Implementation Plan.

9 At this time, I would ask all persons who intend
10 to testify please stand to be sworn in. We have one
11 person. Yes. Raise your right hand, or two people,
12 sorry.

13 (The witnesses were administered the oath
14 by Chairman Bonsey.)

15 CHAIRMAN BONSEY: Thank you. Procedures call
16 for presentations first by proponents, second by
17 opponents, and third by other interested parties,
18 neither for nor against. If you plan to speak and
19 have not already done so, please sign in now on the
20 appropriate speaker's sheet at the front table.
21 Following each presentation, there will be an
22 opportunity for members of the Board to direct
23 questions through the Chair. Copies of the proposed
24 rule are available on the front table by the door.

25 Are there any questions? If there are no

1 questions, we will hear testimony beginning with
2 staff. Jeff?

3 MR. CRAWFORD: Good afternoon, Chairman Bonsey,
4 members of the Board. My name is Jeff Crawford from
5 the Bureau of Air Quality. I guess before we get
6 started today, I'd like to do a little housekeeping.
7 For people who do have copies of the proposal, I just
8 want to point out there are actually two formats.
9 One is the format of the posting on I believe it was
10 April 12; and the newer format, if you will, the new
11 and improved DEP regulations. We had a little bit of
12 a problem in years past in that different bureaus
13 were using different font sizes and different
14 formats, and recently the Commissioner's office
15 updated all of the regulations to a consistent format
16 of different font size. And also I think you'll find
17 it a little easier to find sections and subsections.
18 It is an improvement. Unfortunately, for today's
19 action it came in the middle of rule making. So I
20 wanted to make sure that at least you had the
21 opportunity to see the new format. If you were to
22 call up the Department tomorrow and get a copy of the
23 regulations, it should be in the new format and also
24 the old format. So we've got just a little bit of a
25 check there to let you see what they're going to be.

1 THE SPECTATOR: Is 110 here yet?

2 MR. CRAWFORD: Yes. We have Chapter 110 and
3 Chapters 100 and 115. They all should be available.

4 The first part of today's hearing is going to
5 deal with Chapter 100. And as you -- as you may
6 recall, the department often comes before the Board
7 to amend Chapter 100 in conjunction with other
8 rule-making activities or proposals. Today's
9 amendments to Chapter 100 are, in fact, associated
10 with our 115 proposal with one addition, and it's a
11 significant addition that I want to spend some time
12 on.

13 Chapter 100 is essentially the Department's
14 dictionary of air quality terms. It is a definition
15 of those commonly used terms that you find throughout
16 the whole spectrum of Department regulations. We try
17 to put them in a central place. Talking with the
18 regulative community, it's a big improvement having
19 one single spot that you can go and look and find
20 those definitions rather than have to keep going back
21 and forth cross-referencing, if you will, and trying
22 to find the relevant terms. Definitional changes
23 associated with Chapter 115 are fairly minor, but I
24 do want to point out that some of the more
25 significant changes are within Chapter 100. We've --

1 we have identified those terms in Chapter 115 and
2 Chapter 140 that are, in fact, federally enforceable.

3 As you may recall, within Chapters 115 and 140
4 there are provisions for a synthetic minor. Yes?

5 MR. MALLET: Explain that, please. I see that
6 quite often.

7 MR. CRAWFORD: Synthetic minor, I know; and it's
8 kind of a vague term. What a synthetic minor is, it
9 is a federally enforceable cap on emissions. So a
10 firm that is a major source of very large, potential
11 emitter can take a federally enforceable cap on its
12 emissions, limiting the remissions output to a
13 certain threshold and avoid the specter, if you will,
14 or the more onerous permitting requirements of
15 Chapter 140, the Title 5 program. So this is a
16 good -- it's a provision that we expect to see quite
17 a few firms take advantage of.

18 And a significant change within 100 is in the
19 definition of allowable emissions. And we have made
20 changes to note on the bottom of page two, if you
21 have it in front of you, clarify that those terms or
22 conditions in licenses issued pursuant to Chapter 115
23 which are accepted to avoid a designated federal
24 requirement are federally enforceable. Those
25 conditions in licenses issued to Chapter 140 which

1 are identified as state conditions only are not
2 generally federally enforceable. And that's an issue
3 that we've been dealing with EPA over the past
4 months, since the end of last summer when we came
5 before you with the State Operating Permit program
6 provisions, the whole Title 5 program, what parts are
7 federally enforceable, what parts aren't. And in
8 fact, a big part of today's proposals are to clarify
9 the parts of each regulation that are federally
10 enforceable and those that are not. And in a sense,
11 really, what we are saying is if we identify it as
12 being federally enforceable as an emissions limit, it
13 is so. Otherwise, it may or may not be. And I hate
14 to be vague, but there's some question which parts
15 may or may not be; so we've included the language are
16 not generally enforceable by EPA and citizens
17 pursuant to the Clean Air Act. No guarantees there,
18 if you will.

19 Another significant change, if you will, but
20 relatively significant change, is to change the
21 definition of insignificant activities. And if we
22 move forward to number 66, we just wanted to clarify
23 that insignificant activities are those activities
24 specified in Appendix B of Chapter 140 for the
25 purposes of Chapter 140, and if activities that a

1 facility specifies or as specified in Appendix B of
2 Chapter 115 for the purpose of Chapter 115.

3 Previously we had Appendix B for Chapter 140, and we
4 referenced that within Chapter 115. What we've done
5 now is added an Appendix B, it's identical to the
6 same appendix in Chapter 140, and called it Chapter
7 115 Appendix B. Again, one stop shopping to the
8 extent possible. Clarify the definition of major
9 modification, number 76. And finally, clarify that
10 the best available retrofit technology, or BART,
11 applies only to larger sources. Those are the -- the
12 basic Chapter 115 changes.

13 I think perhaps the most significant change,
14 though, if we move onto the definition of VOCs,
15 number 154, early this year EPA added
16 perchloroethylene, PCE, it's a dry cleaning fluid
17 that we all hear so much about, to its list of
18 exempted compounds, exempted because it is negligibly
19 photochemically reactive. It is not an ozone causing
20 compound. Is it volatile? Yes. But it is not
21 reactive. And as a result, similar to what we did
22 last year with pentafluoro -- let's see, let's get
23 those right. Perchloroethylene, yes. Going back to
24 that, I'm sorry. We exempted several compounds last
25 year, and memory fails me on that one, so we'll go

1 back to perchloroethylene. Because it is not a
2 reactive compound or does not contribute to ozone,
3 EPA has -- has exempted it; and the Department is
4 following suit. It will not affect our 15-percent
5 plan, because when we did our calculations last year,
6 we already subtracted perchloroethylene out. We did
7 an inventory, and the first step was to subtract out
8 perchloroethylene emissions. So it will not affect
9 our 15-percent plan credits, it won't actually affect
10 our air quality from standpoint of ozone.

11 I do want to point out, however, that
12 perchloroethylene still remains a hazardous air
13 pollutant and is regulated under federal law and
14 under state programs. And in fact, Department will
15 be coming before you probably toward the end of this
16 year with some amendments to our Chapter 125 dry
17 cleaner regulation. And that will be to incorporate
18 some federal requirements within the State program to
19 address perchloroethylene emissions at dry cleaners.
20 So it is a problem. It is a -- a definite health
21 problem, but it is not an ozone causing agent. So
22 therefore, we are exempting it from those -- those
23 compounds that are, in fact, reactive and contribute
24 to ozone problems.

25 Chapter 100, pretty straightforward. The

1 driving force behind some of those Chapter 100
2 definition changes was Chapter 115. Again, as you'll
3 recall, the end of last year we came before you with
4 a proposal to take a state operating program and
5 break it into two parts. Chapter 115 we repealed and
6 replaced with a new program directed at both major
7 and minor sources. It's a state program. And we
8 also had Chapter 140, part 70 sources, those large
9 sources that have to have that federal permit. Since
10 that time, we submitted the Chapter 115, 140
11 submittal to EPA for approval. And we noticed a few
12 inconsistencies, a few changes that were necessary.
13 And we also needed to make some changes to better
14 clarify the requirements to the regulated community.

15 Again, Chapter 115 is a state program, specifies
16 who must obtain an air emissions license, application
17 requirements, compliance standards, and criteria.
18 What we are proposing today is to amend Chapter 115
19 to provide increased flexibility, identify state
20 versus federally enforceable provisions. And that's
21 key. Somebody who gets a synthetic minor does not
22 want to have every provision under the state program
23 federally enforceable; they just want to have their
24 cap on emissions federally enforceable to improve
25 public notification, public participation in the

1 process, and finally, improve compliance in rule
2 clarity. Providing increased flexibility, we're
3 proposing to expand our definition of insignificant
4 activities or those activities which are exempt from
5 being included on a license application. In addition
6 to categorical exemptions, which again we've included
7 as Appendix B to Chapter 115, we are also proposing
8 to allow the Department to exempt substantially
9 equivalent activities on a case-by-case basis.

10 At a number of workshops last year with the
11 regulated community -- and originally we were looking
12 at basically just calling these insignificant
13 activities on a -- on a -- on a -- essentially a
14 noncategorical basis. In other words, you tell us if
15 you think it's an insignificant activity; and we'll
16 tell you yes or no. And I think with a resounding
17 cry from the regulated community, what we heard was
18 no, we want to have a categorical listing of
19 activities that we know up front represent
20 insignificant activities. These are everything from
21 White Out in the office to the fan in the lavatory.
22 These do not count and we don't have to include them
23 in our license application.

24 At the same time, even though that list has
25 grown to 140 some odd activities I believe the number

1 is, you still cannot include everything. It is not
2 an all comprehensive or all inclusive listing. And I
3 think it's important for the department to be able to
4 address those situations where somebody has a truly
5 insignificant activity that doesn't fall under one of
6 those categories. And in fact, that is a -- a major
7 part of our proposal here today, to expand that
8 insignificant activity listing to where we can exempt
9 activities on a case-by-case basis, provided they are
10 substantially similar. And that's the key; they got
11 to be similar activities.

12 Another part of the proposal is to identify
13 state versus federally enforceable provisions. Major
14 part of state operating permit programs under Title 5
15 is the idea of a permit shield. And in essence, what
16 the permit shield does is offers the source the
17 opportunity to put down on paper a contract, if you
18 will. It is a contract between the source and the
19 state in which all of the requirements are specified
20 and both parties sign off on it. As a source, I
21 would go before the Department and say well, I am
22 subject to Chapter 115 of the State Operating Permit
23 program, I am subject to section so and so of the
24 Clean Air Act, so forth and so on, do you know of
25 anything else I need to do to comply with the law.

1 The state says no, so we have agreement that I do not
2 have to be concerned with underground storage tanks,
3 okay. Fine. That is a permit shield, because now
4 if -- if -- if the state were to go back to a source
5 and say well, sorry, we goofed, we missed a
6 requirement, that source has a shield against
7 enforcement activities. And I think actually the --
8 the slide says it pretty -- pretty articulately, the
9 Department issues a license of termination that
10 specific requirements do not apply to the source.

11 The key, though, is under Chapter 115, which is
12 a state program. We cannot issue a permit shield
13 against federal requirements. Why? Because it's a
14 state program; it's not a state permit. So we can
15 only issue a state -- a permit shield for state
16 requirements. And that was a -- a key clarification
17 and one of those issues, in fact, that we'd been
18 discussing with EPA.

19 Another change was that we needed to clarify
20 that in addition to permit shield and synthetic minor
21 provisions other license terms and conditions may be
22 federally enforceable. Synthetic minor provisions
23 that permit cap on your potential to emit, federally
24 enforceable cap, is federally enforceable. But there
25 are other provisions that may be. We're not sure

1 what they are, but it's a caveat to the people.

2 There's a caveat to the regulative community.

3 In improving public notification, one thing that
4 we have -- had done is said that for license
5 transfers applicants must now publish public notice
6 of intent to file and notify all abutters by
7 certified mail. This is in line with the Title 5
8 requirements for notification. Previously, we did
9 not require that. We did require it on major
10 modifications, new sources, new licenses for existing
11 sources. We did not require it for transfers.
12 And -- and basically I think it's -- it's pretty well
13 stated that draft notification to the public and
14 public comments period are now going to be required
15 whenever a source seeks to establish new terms or
16 conditions which are accepted to avoid a designated
17 federal requirement. Again, the potential to emit
18 limitation.

19 Also proposing to improve compliance and rule
20 clarity, we provided for increased compliance an
21 additional standard condition number 15, which
22 require a licensee to establish and maintain
23 compliance documentation hardware as needed by the
24 Department to determine compliance status. I -- I
25 hope the regulated community can support this and

1 live with this. It's important from our end. I know
2 there may be some concern of heavy handedness on the
3 part of the Department coming in and saying well, you
4 need to do this, this, this, and that. I'm going to
5 go out on the limb and say those days are long gone,
6 and I -- I think that is a -- a very remote
7 possibility only. More importantly, when the
8 Department finds a truly bad operator or is working
9 with someone to try to resolve a very bad problem, we
10 need to have the ability to go in there and find out
11 the extent of that problem. And that's what that --
12 that is what that proposal does.

13 And then finally the rule clarity -- it's a lot
14 of significant reorganization. There's some
15 rewording and rephrasing for clarity. In a summary,
16 the proposed amendments would provide increased
17 certainty and flexibility in the regulated community
18 while simultaneously improving public's participation
19 and compliance in environmental laws and regulations.
20 I think it's a win-win situation.

21 In an unrelated issue, the Department is also
22 proposing the amendment of Chapter 110, which is our
23 Ambient Air Quality Standards Regulation. Chapter
24 110 establishes ambient air quality standards that
25 represent the maximum amount of a particular

1 pollutant in the air and it also establishes ambient
2 increments; in other words, the maximum permitted
3 increase of a pollutant in an area. And that's what
4 we're here today for, discuss amending Chapter 110
5 for an ambient increment. The ambient increments
6 that Chapter 110 deals with are particulate matter,
7 fine airborne particulates, sulfur dioxide, and
8 nitrogen dioxide. On June 3 of 1994, EPA revised the
9 maximum allowable increases for particulate matter
10 under prevention of significant deterioration; this
11 is prevent deterioration of air quality. The revised
12 increments were based on a particulate standard of
13 PM10 or those particles less than -- less than or
14 equal to ten microns in size. Very small. Previous
15 to this, we were using total suspended particulates,
16 the whole spectrum of airborne dust and particulates
17 up to as large as 100 microns, visible size. Ten
18 microns in comparison is somewhat less than a
19 diameter of a human hair. And because of this, EPA
20 is moving forward and has required states to update
21 their -- their PSD rules, Chapter 110, to reflect the
22 PM10 standard rather than total suspended
23 particulates.

24 Actually, this is a -- a timely exercise. The
25 National Ambient Air Quality Standard for total

1 suspended particulates was changed to PM10 standard
2 back in 1987 I believe was the year. So it's taken
3 some time to get around to reflect these changes in
4 the actual ambient air quality increments, and we're
5 just following suit. If we're going to measure air
6 quality with PM10, then we should measure air quality
7 deterioration with the same measure. Again, the
8 proposed amendments replace particulate matter
9 increments based on total suspended particulates with
10 PM10. And it's timely and it's important because the
11 fine particulates are implicated in health problems;
12 it is not the larger dust particles. Most of these
13 are captured by the upper respiratory tract and the
14 nose and so forth. It is the fine particulates that
15 are actually breathed, respire deep into the lungs,
16 and have caused a number of cardiopulmonary problems.

17 I believe Natural Resources Council of Maine
18 recently did a press release about a month ago, you
19 may have heard. There were articles on -- on the
20 news this winter looking at Philadelphia. There have
21 been studies of places such as Salt Lake City,
22 Pittsburgh, London. And the central fact in all of
23 these studies is that there is a strong correlation
24 between the fine particulates and health problems,
25 and not just acute health problems, but death.

1 They're very bad actors, if you will. So we're
2 hoping that by going with the PM10 standard and
3 updating it, you know, we'll better address these
4 fine particulates. And talking with our modeling
5 people, the modeling costs, whenever a source comes
6 in and has to show that they will not, in fact, cause
7 an ambient increase greater than the increment, they
8 would have to do air quality modeling. And the
9 modeling costs for PM10 should be commensurate with
10 those that we currently see under total suspended
11 particulates. So essentially we're just using a
12 different unit of measurement, and that measurement
13 is designed to address those fine particles that are
14 health problems.

15 With that, I'd like to entertain any questions.

16 CHAIRMAN BONSEY: Board members have any
17 questions? Ron?

18 MR. MALLETT: Jeff, is any work being done, to
19 your knowledge, on the federal level on diesel engine
20 particulate?

21 MR. CRAWFORD: Yes. Actually, there are a
22 number of programs for urban city buses primarily
23 where there are retrofits; and there are also
24 programs under way on locomotives, stationary source
25 additives, so forth. Diesel particulates are a

1 significant source of some of these fine particles.

2 MR. MALLETT: The people that live along the
3 transportation corridor?

4 MR. CRAWFORD: Yes. The -- in fact, EPA is in
5 the process right now of studying the particulate
6 standards. And it's very likely that we will be
7 going with an even finer standard in the future,
8 PM2.5. And the majority of those particles are
9 combustion by-products from stationary and mobile
10 sources, diesel engines and sulfate particles.

11 MR. SOUCY: Jeff, how about -- in the same note,
12 how about cone burners?

13 MR. CRAWFORD: I'm not familiar with that.

14 MR. SOUCY: Are they producing any PM10 at all?

15 MR. CRAWFORD: I'm not sure.

16 MR. MALLETT: They're not in existence, Phil.

17 MR. SOUCY: They don't exist now?

18 MR. MALLETT: No. Years ago.

19 MR. CRAWFORD: I would like to discuss that
20 issue with you after the hearing.

21 MR. SOUCY: Fine.

22 CHAIRMAN BONSEY: Other questions?

23 MR. MARSH: Try your synthetic minor one more
24 time.

25 MR. CRAWFORD: Okay. Let's see. You got a

1 major source, I'm going to use an example of a pulp
2 and paper mill. Their potential to emit is
3 calculated on operating 24 hours a day -- talk to
4 some of our licensing people to make sure I'm on line
5 here -- 24 hours a day 365 days a year. That's their
6 potential under federal requirements. Obviously,
7 their emissions could be huge. Their potential
8 emissions might be for this facility, whether it be a
9 mill, oil refinery -- let's change it to a oil
10 refinery because it hits less close to home, if you
11 will, that oil refinery's potential to emit might be
12 50,000 tons of VOCs a year, a huge emission level.
13 However, through controls and only operating --

14 MR. MARSH: Wait a minute. You're talking about
15 the total emission level?

16 MR. CRAWFORD: Total possible.

17 MR. MARSH: Of everything? .

18 MR. CRAWFORD: Everything. For VOCs only,
19 hydrocarbons, we're talking about one pollutant right
20 now for illustration. So that's their potential to
21 emit. It's enormous. However, they're going to
22 use -- this facility, whatever it may be, is going to
23 use natural gas. They're going to put on state-of-
24 the-art control equipment and are only going to
25 operate every other Tuesday. As a result of those

1 conditions on their operation, instead of emitting
2 50,000 tons a year, they're only going to emit 25
3 tons a year of VOCs. Their emissions as conditions
4 of operating are much lower than they would be if
5 they just operated uncontrolled. And as a result of
6 that, if that is a license condition, they agree to
7 that and make that license federally enforceable so
8 that if they decide to run every day all year 24
9 hours a day, EPA can come in and take enforcement
10 action against them.

11 So there's the -- the specter of federal
12 enforcement actions over their head. That is now a
13 synthetic minor and they have taken a federally
14 enforceable cap or limitation on their emissions.
15 It's a federally enforceable emissions limitation.
16 So it is something that they would actually ask for;
17 they would actually apply to the Department. Why
18 might they do this? Number one, to avoid having to
19 go through the whole Title 5 Federal Operating Permit
20 program. Or as another example, if you were some
21 sources, for example oil terminal, if your emissions
22 were high enough, you might have to comply with
23 federal max standards, maximum available control
24 technology standards, for hazardous air pollutants.
25 And by taking a synthetic minor, and those aren't

1 necessarily easy, as a -- as a regulated source, I
2 would like to avoid that. I would like to try to
3 avoid having to put on those kinds of controls. So
4 by taking a synthetic minor, a federally enforceable
5 limitation, what I'm able to do is get my emissions
6 below that threshold and avoid those requirements.
7 That's good for me. So I'm no longer subject to that
8 requirement is an example of why a source might want
9 to do it, in addition to saving some money and
10 simplifying the licensing procedure.

11 MR. MARSH: Does it always come in the form of
12 less productivity?

13 MR. CRAWFORD: No. It may, in fact, simply be
14 the type of fuel you might burn. You might go from
15 number six to number two oil might be sufficient.

16 CHAIRMAN BONSEY: Jeff?

17 MR. CRAWFORD: Let's have Mark give us a --

18 MR. COHEN: Hello, Board members. I'm Mark
19 Cohen. The reason that you -- we have the synthetic
20 minor is that a lot of your small sources --

21 MR. MARSH: Who came up with -- is this
22 something the feds allow or something that came out
23 of you folks?

24 MR. COHEN: Well, it's something that -- the
25 feds back in 1990, the Clean Air Act was passed and

1 said you have Title 5, which is all this major
2 source, major red tape work for all the major sources
3 in the licensing process. And what happens is a
4 small sawmill out in West Gardiner, if they don't
5 have some --

6 MR. MARSH: Now you're getting it down to where
7 I may understand.

8 MR. COHEN: If they were to run all the time,
9 860 or 760 hours a year and they were to have no
10 controls on it, they could be put into this major
11 source category and all this red tape by taking this
12 limit. A lot of these small guys get out of all this
13 red tape. And that's basically what it's for, is the
14 small guys like a rock crusher, a sawmill, like high
15 school boilers, things like that, they can take these
16 federal emissions restrictions and then keeps them
17 out of a lot more red tape. And out of our possible
18 600 sources, we can probably issue about 450
19 synthetic minors and get most of these people out of
20 this federal red tape program, so to speak. And
21 that's what's really behind this whole synthetic
22 minor stuff; it's to keep them out of a real
23 headache.

24 MR. MARSH: It's enforced by whom?

25 MR. COHEN: It will -- it allows -- if those

1 sources were to go over these levels, the feds could
2 come in and say you exceeded these, we can enforce
3 upon you. Not -- the state can do that and the
4 citizens of the country can do that, and -- but it's
5 very -- but those are the levels that are -- if you
6 go above those, you get stuck into the red tape Title
7 5 program.

8 MR. MARSH: So it's enforceable by the State?

9 MR. COHEN: Yes.

10 MR. MARSH: But the feds have to sign off --

11 MR. COHEN: Right.

12 MR. MARSH: -- on it?

13 MR. COHEN: Yes.

14 MR. STICKNEY: Who came up with these words,
15 synthetic minor addition?

16 MR. COHEN: Oh, this is all federal stuff. That
17 was -- that was --

18 MR. STICKNEY: Synthetic means not real.

19 MR. SOUCY: Right. It's not.

20 MR. COHEN: Well, there's another thing called
21 natural minor, but I don't really want to get into
22 that. But a lot of this was prescribed in the Clean
23 Air Act. And the Clean Air Act was very specific in
24 some areas, and this is one of them, that said -- and
25 this is the program that EPA devised under what

1 Congress issued. So this is what we're left with.
2 And we have struggled for three years now trying to
3 minimize the impact to the small sources, because
4 this is a terrible burden as far as paperwork goes.
5 And this Title 5 thing has been -- is a paperwork
6 nightmare for those people that get sucked into it.

7 MR. MARSH: I sign a synthetic minor agreement
8 on my sawmill --

9 MR. COHEN: Yes.

10 MR. MARSH: I know you folks don't like to get
11 into this, but I do, look at the big picture.

12 MR. COHEN: Yes.

13 MR. MARSH: And I take that to my lending
14 institution and say I want to buy a new forklift or I
15 want to do whatever. How -- how long does this last?
16 What's the -- what's the compliance? You say it can
17 be enforced for anyone. But if I signed it in good
18 faith and I'm trying to stay with it, how long can I
19 do it?

20 MR. COHEN: You can do it as long as you stay
21 under the levels that are required. And --

22 MR. MARSH: So this isn't going to be updated in
23 three years, the rules changed and the --

24 MR. COHEN: The levels will not change. The
25 only thing that may change is the fact that EPA has

1 five years in the future to determine whether they're
2 going to take what we call new source performance
3 standard applicable requirements that are applied to
4 minor sources become federally enforceable and put
5 them in the Title 5 program. And we won't know that
6 for about five years because the EPA is the first
7 issue. If they're real smart, they'll continue defer
8 to that and make a decision not to get involved in
9 that. Sometimes their decision making leaves little
10 to be desired, and -- but this is one that they have
11 deferred. We won't know until sometime in 2000.

12 MR. MARSH: Is this concept -- nobody -- I
13 can -- may be here, but I don't recognize. Is this
14 concept accepted and not challenged or whatever by
15 the environmental community?

16 MR. COHEN: I'm not sure -- I'm not sure I
17 understand the question.

18 MR. MARSH: Well, is this concept apt to be
19 challenged by people who are concerned about air
20 quality and whatever?

21 MR. COHEN: No, I don't believe so. Because all
22 the limits that are in their state license are still
23 applicable. And it doesn't change any of their
24 applicable requirements from the state standpoint
25 this time. But it just gives the feds this warm

1 fuzzy feeling, this piece of paper that says that
2 they're not part of the red tape program. That's all
3 it does.

4 MR. MARSH: For purposes of the record, I didn't
5 mean to say that people in business are concerned
6 about clean air; but I meant the clean air watch
7 dogs.

8 MR. COHEN: Right.

9 CHAIRMAN BONSEY: Ron?

10 MR. MALLETT: Mark, what you're saying is just
11 because an installation has the potential to do
12 something but they're not operating at that maximum
13 rate, then they don't have to get involved in all the
14 reporting because they have this so-called synthetic
15 minor. Is that essentially what you're doing?

16 MR. COHEN: Yes.

17 MR. MALLETT: We've heard people testify for
18 something like this in the past.

19 MR. COHEN: Right.

20 CHAIRMAN BONSEY: Kathy?

21 MS. LITTLEFIELD: What kind of emissions are we
22 worried about from the small sawmill that this would
23 apply to?

24 MR. COHEN: Well, we're still concerned with all
25 the pollutants, such as NOX, SO2, particulate,

1 particulate matter of ten microns, VOCs.

2 MS. LITTLEFIELD: That comes from what?

3 MR. MALLETT: Diesel?

4 MR. COHEN: They can -- yes, they can come from
5 any of the combustion sources or the sawing process
6 itself.

7 MS. LITTLEFIELD: PM10, what is that?

8 MR. COHEN: That's the fine particulates, the
9 particulate matter less than ten microns that Jeff
10 was discussing in the Chapter 110. We're changing
11 that standard, but it just deals with a very small
12 particulate.

13 MS. LITTLEFIELD: So PM10 deals with the size of
14 the particulate and not the kind?

15 MR. COHEN: Yes, for the most part.

16 CHAIRMAN BONSEY: Other questions? Does that
17 complete your staff presentation?

18 MR. CRAWFORD: Yes, it does. Thank you, Mark.

19 CHAIRMAN BONSEY: Thank you. We now proceed to
20 the call for proponents and -- no proponents signed
21 up, so I assume there's nobody out there that's a
22 proponent that wishes to speak.

23 Opponents, we have one, Sonja Durgin.

24 MS. DURGIN: I'm new at this. I hope you will
25 indulge me. Out of all respect to the Board members

1 and the air emissions people, we have a small
2 business. We're in the equipment salvage business.
3 My name is Sonja Durgin. We have a small smelter.
4 We smelt irony aluminum to turn it into aluminum
5 ingots to make something that's a total waste into
6 something worthwhile.

7 A few years ago, we were shut down. I came to a
8 meeting last fall. When they redid the law, they
9 kind of exempted smelters, so we were allowed to
10 smelt what we had on hand after taking a great loss
11 in the metals market. We probably run our smelter 30
12 to 35 hours a year. We have an after burner. We
13 have less than a million BTUs. That's including the
14 burner itself and the after burner in the stack.
15 What we smelt is clean. We're a very small
16 operation.

17 Licensing in -- excuse me -- and a lot of
18 paperwork would really be a real hardship for us,
19 probably put us out of business. We don't feel
20 there's any environmental impact from what we do,
21 because we don't do it in the summer at all. It's
22 done in the winter. I feel that every small business
23 that -- that is shut down is adding to the weakening
24 economy. I'm urging you to fashion an exemption for
25 smelters like ours that operate less than 50 hours a

1 year the right time of the year.

2 I have displays with me if you're interested on
3 what we smelt, what it is before, what it is after, a
4 letter from our local assistant fire chief as to
5 observing our smelter, pictures of the smelter in
6 operation, pictures of the chimney when I'm burning
7 the wood stove versus what it looks like from the
8 smelter. And also I wanted to get out and get some
9 pictures of office buildings and whatnot around,
10 because they look a lot worse than ours on the
11 initial startup in the morning, but I didn't get it.

12 Our box is very small for our smelter because we
13 are small. And -- let's see. Our total BTU output,
14 our burner itself is 700,000 BTUs, our after burner
15 is 140,000. That gives us a total BTU of 840,000.
16 And it -- it's fuel fired, too.

17 I guess that's all I have to say. I'm making a
18 plea for small business. I don't know how many other
19 small smelters there are in the state. They call us
20 an incinerator; I call us a smelter. We don't burn
21 garbage or anything like that. We take a piece of
22 iron and aluminum and separate the iron from the
23 aluminum is what we do. And I really urge you to
24 give this some consideration. And I appreciate your
25 time.

1 CHAIRMAN BONSEY: Thank you. Any questions?

2 Jeff, I wonder if you could just comment on what
3 she said. Would you comment, Jeff?

4 MR. CRAWFORD: I'm going to defer to Mark on
5 that one.

6 CHAIRMAN BONSEY: Or Mark. Do you have any
7 thoughts that you could comment on?

8 MR. COHEN: It's kind of a debate in the Bureau
9 as to what levels of incinerators need to be -- come
10 under regulatory review. And we thought that we had
11 a consensus, and we moved forward on that last year.
12 There was another thought that we shouldn't allow
13 that to move forward, and so we moved back to propose
14 to -- we proposed to regulate those sources again.
15 It is not a clear, decisive answer to this cases.
16 There is a number of opinions. And I think at this
17 point we're looking for further information to make
18 an educated decision on this issue.

19 CHAIRMAN BONSEY: Okay. Mark, thank you. Phil,
20 do you have a question?

21 MR. SOUCY: Yes. What kind of product are you
22 smelting?

23 MS. DURGIN: Would you like to see it? I have
24 some with me.

25 MR. SOUCY: Yes.

1 MS. DURGIN: This is what you call irony
2 aluminum. And when we smelt it, what it does is melt
3 the aluminum and then we have the iron. And this is
4 what we end up with, pure aluminum.

5 MR. SOUCY: What's the market, aluminum or iron?

6 MS. DURGIN: Well, there's a market for both.
7 But this is the one we're after, the aluminum. Only
8 we form into a bigger 30-, 35-pound ingot, they call
9 it.

10 MR. SOUCY: Can this be used -- does smelting
11 take away the properties from the aluminum?

12 MS. DURGIN: No. No. And it makes this more
13 valuable. This here is worth nothing like this.

14 MR. SOUCY: You're providing a service.

15 MS. DURGIN: Right. In fact, a lot of this
16 stuff would get thrown around everywhere if we didn't
17 do this.

18 MR. SOUCY: Would end up in a landfill?

19 MS. DURGIN: That's right. Would you like to
20 see this?

21 MR. SOUCY: Very interesting.

22 MS. DURGIN: I had a small one done.

23 MR. STICKNEY: This is pure aluminum?

24 MS. DURGIN: Yes, it is.

25 CHAIRMAN BONSEY: Other questions? Yes, Kathy?

1 MS. LITTLEFIELD: Have you -- has anybody
2 attempted to determine what you emit from your stack?
3 I mean, do you have any burners on it?

4 MS. DURGIN: We have after burner, yes. We
5 found out what we should do to keep it as safe as
6 possible; and that's what we do, we run an after
7 burner.

8 MS. LITTLEFIELD: So do you know what you
9 actually emit after --

10 MS. DURGIN: No. They've never done a test.

11 MS. LITTLEFIELD: I mean, it might be clean air
12 coming out of this there, I mean --

13 MS. DURGIN: That's right. As long as it's not
14 colored, from what I understand, or a bluish black
15 smoke, we're okay. The only time you ever get a
16 color is the initial startup, like any burner, when
17 you initially first start it, you know, until it gets
18 going, and then it's almost clear, you can't hardly
19 see it at all.

20 MS. LITTLEFIELD: So have you ever applied for
21 this synthetic minor?

22 MS. DURGIN: This is new.

23 MS. LITTLEFIELD: Is this something that a
24 business like this could apply for and get out of the
25 red tape of a more --

1 MS. DURGIN: See, this is what we're saying.
2 The red tape has already killed us. Our stuff sat
3 for a long time. We lost thousands of dollars. It
4 almost put us out, because we couldn't do it. But
5 when they left it out last year when they redid, we
6 did manage to clean up some of what we had. But if
7 they put it back on, there we go. We're not even
8 accepting it anymore because of that. We're not
9 taking it in to process.

10 MS. LITTLEFIELD: So what in these new standards
11 is prohibiting you from continuing?

12 MS. DURGIN: The licensing process, all the laws
13 you have to go through, understanding them, getting
14 them to agree, you know.

15 MS. LITTLEFIELD: So the new laws said you must
16 be licensed. And what is the --

17 MS. DURGIN: We're just everyday people. They
18 call us an incinerator. We don't burn garbage.

19 MS. LITTLEFIELD: Is that why you have to be --
20 is that what classifies you as coming under a
21 licensing process, because you're an incinerator?

22 MS. DURGIN: Because they classify us an
23 incinerator, yes.

24 MS. LITTLEFIELD: What's the difference between
25 an incinerator and a smelter?

1 MR. COHEN: Under the regulations, the way the
2 definitions are -- are -- have been developed over
3 the years, there is no difference. And that's why
4 they have -- that's why they end up in a licensing
5 process, because of the definition. In the past,
6 there was no size cutoff for incinerators. They all
7 had to be licensed, for the most part. I mean, very,
8 very small exemptions. There was some review as to
9 determine whether that was a beneficial service to
10 the state environmental aspect. And again, that's
11 what's -- hangs in the balance in the Bureau itself,
12 is to determine what environmental benefit is
13 realized by having them through the licensing process
14 as to not being in the licensing process. And that
15 has really not been decided.

16 CHAIRMAN BONSEY: Any other questions?

17 MR. MARSH: Can -- can the Department quantify
18 how many operations such as this are there across the
19 state, what's the potential for -- what would happen
20 if you put a threshold regulation on it? She I think
21 said less than 50 hours.

22 MS. DURGIN: That's right.

23 MR. MARSH: If they were operating in
24 Farmingdale, Maine, in the area where they are less
25 than 50 hours a year with the conditions that they've

1 got, what's the threat to the environment?

2 MR. COHEN: For the most part, the threat or the
3 problems that arise with these type of units is -- is
4 if they're not run correctly, then it impacts your
5 neighbors. And that's where we've had some --

6 MR. MARSH: Impact the neighbors in what way?

7 MR. COHEN: With a dirty, smoky -- their smoke
8 plume would impact the neighbor and cause, you know,
9 bad air for the neighbor.

10 MR. MARSH: So there's an environmental impact
11 if it isn't --

12 MR. COHEN: Run well.

13 MR. MARSH: Isn't run well.

14 MR. COHEN: Right.

15 MR. MARSH: So if you set a standard for running
16 it, set a time for running it, and set whatever they
17 put through it, they do it less than 50 hours a year,
18 I mean is it going to do irreconcilable harm to the
19 air in Kennebec County?

20 MR. COHEN: I'm not sure, because I'm not the
21 person that has dealt with these issues on a first
22 term basis. I'm not sure, John.

23 MR. MARSH: Is there someone here that can
24 answer the question?

25 MR. COHEN: No, there is not.

1 MS. DURGIN: I can help you a little bit with
2 it. We had Mr. Keshel and Mr. Hart come down from
3 DEP. They came down and viewed the smelter. There
4 was one guy two miles down the road that had been
5 complaining. But he complains about everybody for
6 everything.

7 MR. MARSH: I used to represent you, ma'am, and
8 I'm very familiar with all the -- we haven't got to
9 get into that here.

10 MS. DURGIN: Okay. So they came down and they
11 observed. When they came in the door, they said they
12 were there from air quality and they were in the
13 business of selling licenses to pollute, okay,
14 selling licenses to pollute. They went down there
15 and observed it. They said we were too small, they
16 didn't really feel that we needed to be licensed, our
17 box is small, we are small. So we felt really good,
18 you know, we had opened everything right up to them,
19 been really open and honest. They went back to the
20 office and then they called and said their boss said
21 we had to be licensed, period, that was it. So then
22 we got a letter and -- a registered letter and they
23 stopped us, bang, just like that. We were out of
24 business until this last year when they did the new
25 law, they left it out. But that's where we stood.

1 And we've never had anybody complain, people
2 next door work at town office, none of our neighbors
3 except that one guy down on the Blaine Road. And
4 it's been a nightmare for everybody, not just
5 smelters or anything. And we're paying the price,
6 I'll tell you, big time. But -- I have that letter
7 there. I didn't get a chance to get more of your
8 pictures, but we're very small. We don't put out
9 what a normal boiler in an office building puts out,
10 and we run our after burner. So --

11 MR. MARSH: What's your fuel source?

12 MS. DURGIN: Our fuel source?

13 MR. MARSH: Source.

14 MS. DURGIN: I believe it's furnace oil to run
15 those burners. We checked on propane to see if it
16 would be cleaner and how efficient. We've checked a
17 lot of different things, but --

18 CHAIRMAN BONSEY: Okay. Any other questions? I
19 guess we've -- we've heard the issues here. Staff
20 will govern themselves accordingly.

21 MS. LITTLEFIELD: Could I just ask the
22 Department, is this a situation that would come under
23 that synthetic minor? I mean, could this come under
24 that and provide them a lot less --

25 MR. CRAWFORD: I think -- I think ideally what

1 she would like to see is the ability to avoid the
2 whole licensing process.

3 CHAIRMAN BONSEY: She doesn't want that, even.

4 MR. CRAWFORD: We are not making any
5 pretensions, even Chapter 115 for a very small source
6 to get a license. I mean, it is a costly procedure.
7 And I think what you'd like to see is an exemption,
8 if you will, for -- for a small act.

9 MR. TEWHEY: Such as this.

10 MS. LITTLEFIELD: How would the Department feel
11 about that?

12 MR. CRAWFORD: I'm not -- I'm not going to
13 venture an opinion right now. I think if -- if we
14 can see that it is, in fact, a very minimal activity
15 that isn't having an air quality impact and that, in
16 fact, there are other activities of again the same
17 magnitude that are, in fact, exempted, I think -- I
18 think there would be pretty strong support for
19 exempting activities such as this. How we can do
20 this -- incinerators themselves are a concern.
21 Whether or not it is something we would want to
22 address the smelter as -- as a different, you know,
23 different definition, if you will, perhaps. I don't
24 know. I guess like I say, we're going to give it
25 some very careful thought, though.

1 MS. DURGIN: Does time of year make a
2 difference? It's important, the time of year, right?

3 MR. CRAWFORD: Certainly from an ozone
4 standpoint, you know, the fall, winter, and spring
5 months are more favorable.

6 CHAIRMAN BONSEY: This is not a case where the
7 Department makes a decision at this point. We're
8 just having a public hearing. The issues are brought
9 forth and then they do an analysis of the same. And
10 when it comes back to us for a final decision, that's
11 when we can really debate the issue that has -- as a
12 Board member.

13 MS. DURGIN: I respect all the work everybody
14 does. I have children and grandchildren, and I
15 wouldn't want to hurt them, either, or do something,
16 you know, that would hurt their health.

17 CHAIRMAN BONSEY: Okay. Anybody have any other
18 questions?

19 MR. MARSH: When the department comes back --
20 excuse me -- not of her. I'm sorry. I got to get a
21 hearing aid. You said of her, I guess.

22 CHAIRMAN BONSEY: Yes.

23 MR. MARSH: No, I don't have any question of
24 her.

25 CHAIRMAN BONSEY: Thank you.

1 MS. DURGIN: Thank you very much.

2 MR. MARSH: But I do have a question.

3 CHAIRMAN BONSEY: Go ahead.

4 MR. MARSH: When staff reports back at public
5 hearing, I'd like to have my question answered as to
6 environmental threats that may be involved with
7 operation. She talking 50 hours a year using
8 conventional fuel oil, winter months, rural area
9 where there's no other -- there's no other industrial
10 license, there's nothing licensed, you know. The
11 closest thing probably is a high school. And that
12 would weigh my decision.

13 CHAIRMAN BONSEY: Okay. I'm sure they will be
14 prepared to do that at that time.

15 That was the only one that signed up to testify.
16 Does anybody else wish to make any comment? If not,
17 I declare the public hearing over.

18 (The hearing was concluded at 2:30 P.M.)

19 *****

20

21

22

23

24

25

CERTIFICATE

I, Heather M. Williams, a Notary Public in and for the State of Maine, hereby certify that the foregoing is a true and accurate record of the evidence as taken by me by means of computer-aided machine shorthand.

I further certify that I am a disinterested person in the event or outcome of the aforementioned cause of action.

IN WITNESS WHEREOF, I subscribe my hand this
21st day of July, 1996.

Heather M. Williams
Notary Public

My commission expires:

March 18, 2000.